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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
10 081,731	02 21 2002	Allan D. McLean	6582-59189(NF-01P038)	9443

7590 03 11 2003  
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EXAMINER

MCCORMICK, SUSAN B

ART UNIT	PAPER NUMBER
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1661

DATE MAILED: 03 11 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/081,731

Applicant(s)

MCLEAN, ALLAN D.

Examiner

Susan B. McCormick

Art Unit

1661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on 28 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

**Detailed Action**

The substitute specification of January 28, 2003 is hereby acknowledged and entered as paper number 5 in the case file wrapper.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claim Rejection**

Claim 1 remains rejected under 35 U.S.C 112, first and second paragraphs. for the reasons stated in the last Office action (paper number 5).

Applicant's response dated January 28, 2003, failed to address the following grounds of rejection:

A. Applicant should disclose the employed color chart used in the specification. Applicant should supplement all general color descriptions currently set forth within the specification with color designations from the employed color chart. For example, on page 2, lines 19, 24, 25, 28, "green-brown," "grey-green," "brown-green," and "cream," respectively. As well as the petiole, stipules, stem and lenticel color.

B. Applicant has failed to disclose information regarding the length, diameter and color of the flower bud.

C. Applicant has failed to disclose the color, size and amount of the sepals.

D. Applicant has failed to disclose the length, width, shape of the apex and base and margin of the petal. The recitation "length greater than width" in describing the size of the petal is vague and insufficient in this regard. Additionally, the color "pink" should be designated with a color designation.

E. Applicant has failed to disclose the length, diameter and color of the peduncle.

F. Applicant has failed to describe in the specification the reproductive organs. Applicant should disclose such information and describe these structures (i.e. amounts, sizes, color) in the interest of providing as complete a botanical description of the observed plant as is reasonably possible.

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The above listing may not be complete. Applicant should carefully review the disclosure and import into same any corrected or additional information which would aid in botanically identifying and/or distinguishing the cultivar for which United States Plant Patent protection is sought.

Summary

No claim is allowed.

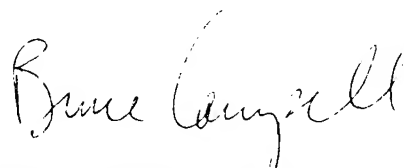
Correspondence

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Susan B. McCormick whose telephone number is (703) 305-1682. The Examiner can normally be reached Monday through Thursday from 6:00 a.m. to 4:30 p.m.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Bruce Campell, can be reached on (703) 308-4205. The fax number for the group is (703) 305-3014 or 308-4242.

Any inquiry of a general nature or relating to the status of this application should be directed to the Matrix Customer Service Center whose telephone number is (703) 308-0196.

sbm



BRUCE R. CAMPELL, PH.D.  
SUPERVISORY PATENT EXAMINER  
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